



UNIVERSAL PERIODIC REVIEW – FOURTH CYCLE

Submission to the 41st session of the Human Rights Council’s Universal
Periodic Review Working Group

October 2022, Geneva, Switzerland

INDONESIA

The Center for Family and Human Rights (C-Fam) is a nongovernmental organization which was founded in 1997 and has held Special Consultative Status with the UN Economic and Social Council since 2014. We are headquartered in New York and Washington, D.C. and are a nonprofit, nonpartisan research and advocacy organization that is dedicated to reestablishing a proper understanding of international law, protecting national sovereignty and the dignity of the human person.

INTRODUCTION

1. In 2020, the ministers and high representatives of 34 countries met to launch the Geneva Consensus Declaration (GCD), in which they committed to promoting four objectives: improve women’s health, protect human life, strengthen the family as the basic unit of society, and defend the sovereignty of nations with regard to their laws and policies to protect life.¹ Indonesia was one of the leading cosponsors of the GCD. This report focuses on Indonesia’s fulfillment of its commitments to human rights in the context of the four pillars of the GCD.

THE GENEVA CONSENSUS DECLARATION

2. The language of the GCD is drawn exclusively from documents agreed by consensus, including core UN human rights treaties, the founding documents of the UN such as the Universal Declaration of Human Rights (UDHR), and major meeting outcomes such as the Beijing Declaration and Platform for Action and the Programme of Action of the International Conference on Population Development.
3. At the signing ceremony launching the GCD, Indonesia’s Minister of Health, Terawan Agus Putranto expressed his country’s commitment to the “advancement and protection of women and children’s rights in all aspects, including health” with an emphasis on maternal health, and “empowering family rule in ensuring women and children’s health as the fundamental unit of society.”²

PROTECTING WOMEN’S HEALTH

4. At the 1994 International Conference on Population and Development (ICPD), nations pledged “to enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.”³ This commitment is echoed in the GCD, alongside reaffirmations of the importance of women’s equal rights and their contributions to society, both in terms of education, employment, and civic engagement and through the family. The unique and essential role of women as mothers was recognized in the Beijing Declaration and Platform for Action adopted at the 1995 UN Fourth World Conference on Women.⁴ Both of these landmark conferences, as well as the subsequent Millennium Development Goals and Sustainable Development Goals, include commitments to reduce maternal and child mortality, and while significant progress has been made around the world, critical gaps remain, especially for those in the poorest, most remote, and resource-deprived areas.
5. The government of Indonesia estimated the maternal mortality ratio (MMR), defined as the number of maternal deaths per 100,000 live births, to be 305 in 2015.⁵ The estimated MMR based on modeling by UN agencies was lower, at 177, slightly higher than the MMR of the South Asia region, which was estimated at 163.⁶ Indonesia has significantly reduced its maternal mortality since 1990—by nearly a third—but a review of recent maternal deaths deemed the vast majority of them (90%) to have been preventable.⁷ Indonesia has greatly increased availability of skilled birth attendants, and key to further

reductions in deaths is timely availability of emergency obstetric care in cases of life-threatening complications⁸ Maternal health in Indonesia, as in many parts of the world, has suffered setbacks due to the COVID-19 pandemic.

6. The improvements in maternal health in Indonesia were achieved without significant changes to the law regarding abortion, which is illegal with the exceptions of a medical emergency threatening the mother, in cases of rape, or a severe fetal anomaly. Post-abortion care is available to women suffering complications from miscarriage or induced abortion, regardless of the legality of the procedure.⁹
7. Indonesia's progress on maternal health, and commitment to further improvement, while continuing to restrict the practice of abortion, is entirely in keeping with international standards adopted by consensus and in alignment with Indonesia's commitments as stated in the GCD: "Improve and secure access to health and development gains for women, including sexual and reproductive health, which must always promote optimal health, the highest attainable standard of health, without including abortion."¹⁰

PROTECTING HUMAN LIFE

8. Indonesia's laws protecting the life of the unborn are consistent with its human rights obligations as set out in the binding human rights treaties ratified by Indonesia as well as other international agreements. The 1994 International Conference on Population and Development (ICPD), as quoted in the GCD, states that "any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process."¹¹ The standard set at the ICPD has been repeatedly reaffirmed by international consensus, including at the adoption of the Sustainable Development Goals. No international human rights treaty ratified by Indonesia asserts a human right to abortion, or could reasonably be interpreted as including such a right.¹²
9. As mentioned previously, Indonesia's laws protect life from conception with very limited exceptions. However, illegal, clandestine abortions continue to be performed, leading to maternal injury and death in some cases. In keeping with Indonesia's commitments outlined in the GCD to promote optimal health without including abortion, and the ICPD agreement that "governments should take appropriate steps to help women to avoid abortion,"¹³ efforts must be taken to identify the root causes of abortion and ensure the needs of women and their families are met when faced with crisis pregnancies.

SUPPORT FOR THE FAMILY

10. Signatories to the GCD committed to "support the role of the family as foundational to society and as a source of health, support, and care."¹⁴ The constitution of Indonesia states that "every person shall have the right to establish a family and to procreate based upon lawful marriage." It further states that "The economy shall be organized as a common endeavour based upon the principles of the family system."¹⁵

11. Human rights belong to all persons, regardless of their familial or household status, and the state has a special obligation to ensure that the basic needs of children are met. As the Convention on the Rights of the Child (CRC) states, the child “should grow up in a family environment, in an atmosphere of happiness, love and understanding” and has, “as far as possible, the right to know and be cared for by his or her parents.”¹⁶ As recognized in the CRC, and supported by a wide range of social science findings, it is best when children, as far as possible, are raised by their own biological, married, parents.
12. In the third UPR cycle, Indonesia registered support for recommendations to “redouble efforts in sex education” and “adopt legislative and policy measures to ensure women and adolescents have access to sexual education” from Colombia and Honduras, respectively. A civil society joint submission acknowledged the government of Indonesia’s efforts to incorporate educational strategies to reduce teenage pregnancies, child abuse, and child marriage, while criticizing these policies for not being “comprehensive, nor rights based,” and for failing to impose regulations on the content of the curricula. They added that “the State’s obligation to provide [comprehensive sexuality education] is secured through the ratification of several international human rights instruments as well as of progressive national laws and policies.”¹⁷ This is inaccurate, as the formulation of “comprehensive sexuality education” (CSE) is not a matter of international consensus, nor is it mentioned in any binding international human rights instrument.

NATIONAL SOVEREIGNTY

13. In its response to recommendations received in the third UPR cycle, Indonesia explained that it had noted, and not accepted, recommendations requesting that it “accept [a] legal framework that has not gained universal support or international consensus.”¹⁸ As stated in the GCD, with regard to laws on abortion, “each nation has the sovereign right to implement programs and activities consistent with their laws and policies.” With regard to other controversial subjects like CSE, the same standard applies, as there is no international obligation adopted by consensus, nor any binding international human rights treaty ratified by Indonesia, that can be reasonably interpreted as creating such a right.

CONCLUDING RECOMMENDATIONS

14. We urge Indonesia to continue protecting the natural family and marriage, formed by a husband and a wife, as the fundamental unit of society, as well as the unborn.
15. Indonesia should continue to improve maternal and child health outcomes, especially for those in low-resource settings, without including abortion, in accordance with its commitments in the Geneva Consensus Declaration.
16. We encourage Indonesia to continue to affirm the principles set forth in the Geneva Consensus Declaration, call on its fellow signatories to do likewise, and encourage other countries to sign the declaration in support of women’s rights, national sovereignty, the right to life, and the centrality of the family to achieving lasting and human-rights-centered development.

-
- ¹ Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family, 2020. Available at <http://c-fam.org/wp-content/uploads/geneva-consensus-declaration-english.pdf>
- ² Geneva Consensus Declaration Signing Ceremony, October 22, 2020. Available at <https://www.youtube.com/watch?v=rRPuJVozJz8>
- ³ United Nations International Conference on Population and Development. (1994). "Programme of Action of the International Conference on Population Development," Cairo.
- ⁴ United Nations Fourth World Conference on Women. (1995). "Beijing Declaration and Platform for Action" (Annex II, Paragraph 29). Beijing.
- ⁵ Statistics Indonesia (Badan Pusat Statistik-BPS). Profil Penduduk Indonesia Hasil SUPAS. Jakarta: BPS; 2015.
- ⁶ WHO, UNICEF, UNFPA, World Bank Group, and the United Nations Population Division. Trends in Maternal Mortality: 2000 to 2017. Geneva, World Health Organization, 2019, available at <https://data.worldbank.org/indicator/SH.STA.MMRT>
- ⁷ Baharuddin M, Amelia D, Suhowatsky S, Kusuma A, Suhargono MH, Eng B. Maternal death reviews: A retrospective case series of 90 hospital-based maternal deaths in 11 hospitals in Indonesia. *Int J Gynecol Obstet.* 2019;144(Suppl.1):59–64.
- ⁸ Ahmed, S. and Fullerton, J. (2019), Challenges of reducing maternal and neonatal mortality in Indonesia: Ways forward. *Int J Gynecol Obstet*, 144: 1-3. <https://doi.org/10.1002/ijgo.12728>
- ⁹ Fact Sheet: Induced Abortion in Indonesia. The Guttmacher Institute, November 2020. Available at <https://www.guttmacher.org/fact-sheet/induced-abortion-indonesia>
- ¹⁰ Geneva Consensus Declaration, *ibid.*
- ¹¹ United Nations International Conference on Population and Development, *ibid.*
- ¹² See the San Jose Articles, 2011, available at www.sanjosearticles.com
- ¹³ United Nations International Conference on Population and Development, *ibid.*
- ¹⁴ Geneva Consensus Declaration, *ibid.*
- ¹⁵ Indonesia's Constitution of 1945, Reinstated in 1959, with Amendments through 2002. Available at https://www.constituteproject.org/constitution/Indonesia_2002.pdf
- ¹⁶ United Nations, Convention on the Rights of the Child, 1990. A/RES/44/25. Available at <https://www.unicef.org/child-rights-convention/convention-text>
- ¹⁷ Joint submission by Rutgers WPF Indonesia, Ardhany Institute, Yayasan Pulih, Suara Kita, Aliansi Remaja Independen, Perempuan Mahardhika, GWL-INA, and Sexual Rights Initiative. Submission to the Universal Periodic Review of Indonesia, held in May 2017. Available at https://www.upr-info.org/sites/default/files/document/indonesia/session_27_-_may_2017/js10_upr27_idn_e_main.pdf
- ¹⁸ Addendum by Indonesia to the Report of the Working Group of the Universal Periodic Review. 36th Session of the Human Rights Council, September 2017. A/HRC/36/7/Add.1. Available at <http://undocs.org/A/HRC/36/7/Add.1>